

**FILED
COURT OF COMMON PLEAS
GUERNSEY COUNTY**

2018 MAY -4 AM 11:19

THE HANOVER INSURANCE GROUP, INC., : Case No. 2018-184-V-4-2
as Subrogee of Peter Hulbert Family Limited
Partnership,

Plaintiff,

v.

SIMPLEXGRINNELL LP
c/o Registered Agent
C T Corporation System
1200 South Pine Island Road
Plantation, FL 33324

and

HERITAGE FIRE PROTECTION, INC.
c/o Registered Agent
400 South Big Run Road
Ashland, KY 41102

Defendants.

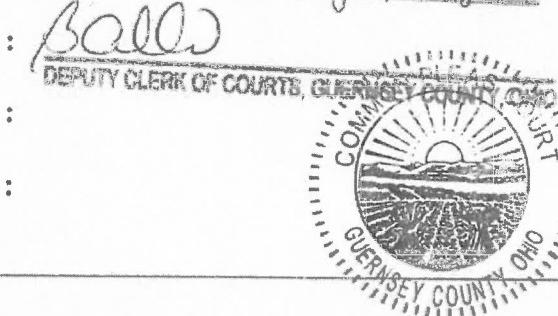
TERESA A. DANKOVIC
CLERK OF COURTS
GUERNSEY CO., OHIO

Judge: Padavan

: COMPLAINT AND
JURY DEMAND

:

: CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL
(EXCEPT WHERE REDACTED AS REQUIRED BY LAW)
FILED DATE May 4, 2018
CERTIFIED DATE May 4, 2018



Plaintiff The Hanover Insurance Group, Inc., as Subrogee of Peter Hulbert Family Limited Partnership, by and through its attorneys, Denenberg Tuffley, PLLC, and for its Complaint against Defendants SimplexGrinnell LP and Heritage Fire Protection, Inc. states and alleges as follows:

PARTIES

1. That at all times material hereto, Plaintiff, The Hanover Insurance Group, Inc. ("Hanover" or "Plaintiff"), was a duly admitted insurance company in the State of Massachusetts, authorized to write property and casualty insurance within the State of Ohio, County of Guernsey, City of Cambridge, with its principal place of business located at 440 Lincoln Street Worcester, Massachusetts 01653.

2. That at all times and material hereto, Defendant, SimplexGrinnell LP ("SimplexGrinnell"), was a Florida corporation authorized to do business in the State of Ohio, County of Guernsey, City of Cambridge, with its corporate address located at 50 Technology Drive Westminster, Massachusetts 01441.

3. That at all times and material hereto, Defendant, Heritage Fire Protection, Inc. ("Heritage"), was a Kentucky corporation, authorized to do business in the State of Ohio, County of Guernsey, City of Cambridge, with its corporate address located at 400 South Big Run Road, Ashland, Kentucky 41102.

4. That Plaintiff's subrogor, Peter Hulbert Family Limited Partnership ("Peter Hulbert"), is an Ohio Partnership with its principal place of business located at 2307 Southgate Parkway, Cambridge, Ohio 43725.

JURISDICTION AND VENUE

5. The Court has jurisdiction of Plaintiff's claim as the amount in controversy exceeds \$25,000. Ohio Rev. Code Ann. § 2305.01.

6. Venue is proper pursuant to Ohio Rules of Civil Procedure §3(B)(5), as the property damage occurred at Peter Hulbert's property located in Guernsey County, Ohio.

FACTUAL ALLEGATIONS

7. That prior to December 21, 2016 Hanover did issue to its insured, Peter Hulbert its policy number 27W-9534930-04, insuring, *inter alia*, the premises commonly known as 2307 Southgate Parkway, Cambridge, Ohio 43725, against loss and damage from water and other stated perils, including damage to the structure, its contents, and for business interruption.

8. That prior to December 21, 2016, Defendant SimplexGrinnell serviced and maintained a sprinkler system located at 2307 Southgate Parkway, Cambridge, Ohio 43725.

9. That in the course of servicing and maintaining said sprinkler system, Defendant SimplexGrinnell ignored and/or failed to heed the proper protocol for servicing and maintaining the system.

10. That prior to December 21, 2016 Defendant Heritage installed the sprinkler system and failed to properly install the piping.

11. That on or about December 21, 2016, the sprinkler system located at 2307 Southgate Parkway, Cambridge, Ohio 43725 ruptured, causing extensive water damage to the building and its contents.

12. That as a direct and proximate result of failure of the sprinkler system, Peter Hulbert incurred damages in an amount in excess of Twenty-Five Thousand (\$25,000.00) Dollars and pursuant to its policy, Plaintiff Hanover paid the loss and became subrogated to the rights of its insured to the extent of said payment.

COUNT I – NEGLIGENCE - SIMPLEXGRINNELL

13. Plaintiff realleges and incorporates the allegations set forth in Paragraphs 1-12 as if fully set forth herein.

14. That prior to December 21, 2016, Peter Hulbert contracted with Defendant SimplexGrinnell to maintain and service the sprinkler system located at 2307 Southgate Parkway, Cambridge, Ohio 43725.

15. Defendant SimplexGrinnell undertook a duty to test, install, modify, service and/or maintain the sprinkler system at Peter Hulbert so that it would operate properly and not unreasonably discharge or cause damage to the business of Peter Hulbert.

16. That in breach of said duties, Defendant SimplexGrinnell failed to properly service and maintain said sprinkler system and maintained it in violation of applicable standards codes, in the following respects:

- a. It failed to properly service the sprinkler system so that an improper discharge of water into the business would be prevented;
- b. It failed to properly instruct and educate its employees, and to follow manufacturer's recommendations with regard to proper servicing of the sprinkler system;
- c. It failed to properly test and inspect the sprinkler system to ensure that it removed all water used during testing from the piping;
- d. It failed to conform to prevailing standards of care in the industry with regard to the servicing of sprinkler systems of the type locate at Peter Hulbert; and
- e. It failed to warn and/or instruct foreseeable users of the risks associated with its maintenance and service.

17. That as a direct and proximate result of the Defendant's breaches of duty, Peter Hulbert sustained the damages as previously set forth, and Hanover became subrogated to the rights of its insured against the Defendants.

WHEREFORE, Hanover seeks judgment against Defendants in an amount in excess of Twenty-Five Thousand (\$25,000.00) Dollars, together with costs, interest and attorney fees most wrongfully incurred.

COUNT II – BREACH OF CONTRACT - SIMPLEXGRINNELL

18. Plaintiff realleges and incorporates the allegations set forth in Paragraphs 1-17 as if fully set forth herein.

19. That Defendant SimplexGrinnell provided a warranty with its service work which expressly and/or impliedly promised that its maintenance would be proper and free of defects.

20. That Peter Hulburt performed its obligations under the contract by paying Defendant SimplexGrinnell for its services.

21. That Defendant SimplexGrinnell performed its obligations under the contract by paying the Defendant for its services.

22. That Defendant SimplexGrinnell breached its contract with Peter Hulburt in the following ways:

- a. It failed to properly service the sprinkler system so that an improper discharge of water into the business would be prevented;
- b. It failed to properly instruct and educate its employees, and to follow manufacturer's recommendations with regard to proper servicing of the sprinkler system;
- c. It failed to properly test and inspect the sprinkler system to ensure that it removed all water used during testing from the piping;
- d. It failed to conform to prevailing standards of care in the industry with regard to the servicing of sprinkler systems of the type locate at Peter Hulburt; and
- e. It failed to warn and/or instruct foreseeable users of the risks associated with its maintenance and service.

23. That as a direct and proximate result of Defendant's breaches, Peter Hulburt suffered damages as set forth above, and Hanover is subrogated to any and all rights that it may have against said Defendant.

WHEREFORE, Plaintiff Hanover seeks judgment against Defendants in an amount in excess of Twenty-Five Thousand (\$25,000.00), together with costs, interest and attorney fees most wrongfully incurred.

COUNT III – NEGLIGENCE - HERITAGE

24. Plaintiff realleges and incorporates the allegations set forth in Paragraphs 1-23 as if fully set forth herein.

25. That prior to December 21, 2016, Peter Hulbert contracted with Defendant Heritage to install the sprinkler system located at 2307 Southgate Parkway, Cambridge, Ohio 43725.

26. Defendant Heritage undertook a duty to install the sprinkler system at Peter Hulbert so that it would operate properly and not unreasonably discharge or cause damage to the business of Peter Hulbert.

27. That in breach of said duties, Defendant Heritage failed to properly install said sprinkler system in violation of applicable standards and codes, in the following respects:

- a. It failed to properly install the sprinkler system so that an improper discharge of water into the business would be prevented;
- b. It failed to properly instruct and educate its employees, and to follow manufacturer's recommendations with regard to proper installation of the sprinkler system;
- c. It failed to properly test and inspect the sprinkler system to ensure that it removed all water used during testing from the piping;
- d. It failed to conform to prevailing standards of care in the industry with regard to the installation of sprinkler systems of the type locate at Peter Hulbert; and
- e. It failed to warn and/or instruct foreseeable users of the risks associated with its installation.

28. That as a direct and proximate result of the Defendant's breaches of duty, Peter Hulbert sustained the damages as previously set forth, and Hanover became subrogated to the rights of its insured against the Defendants.

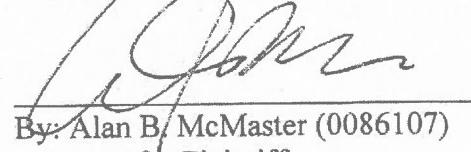
WHEREFORE, Hanover seeks judgment against Defendants in an amount in excess of Twenty-Five Thousand (\$25,000.00) Dollars, together with costs, interest and attorney fees most wrongfully incurred.

PLAINTIFF DEMANDS A JURY TRIAL ON ALL ISSUES

Dated: May 2, 2018

Respectfully submitted,

DENENBERG TUFFLEY PLLC


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